



33
Election

PATENT

Attorney Docket No: 28967/35061A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Alitalo et al.

U.S. Serial No.: 09/427,657

Filed: October 26, 1999

For: Use of VEGF-C or VEGF-D
Gene or Protein to Prevent
Restenosis.

Group Art Unit: 1636

Examiner: S. Kaushal

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ELECTION WITH TRAVERSE IN RESPONSE TO RESTRICTION REQUIREMENT

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Sir:

In a communication dated April 25, 2003, the Patent Office alleged that the claims pending in the above-identified application were directed to two distinct inventions and required restriction under 35 U.S.C. §121 and 372. This response is timely filed with a petition and fee for a one-month extension of time.

I. Election

The Applicants hereby elect Group I (claims 1-8, 10-18, 22-32, 49-74, and 75-100), "drawn to a method of treating a mammalian subject to inhibit restenosis of a blood vessel by administering to the subject a composition comprising (SEQ ID NO:1) that encodes a VEGF-C polypeptide (SEQ ID NO:2)." See Office Action of April 25, 2003 at p. 2.

II. Traversal

The MPEP indicates that two patentably distinct inventions should be restricted only if examination together would pose a serious burden on the examiner.

Quite the opposite situation exists here. The substantive examination of this application has proceeded for years and has included a substantial examination of the claims directed to both VEGF-C and VEGF-D. See, Office Actions of May 10, 2000, November 14, 2000, October 25, 2001, and June 5, 2002; Applicants' responses to each office action; and Interview Summary of July 16, 2002.

At this late stage in the prosecution, it would be inefficient to separate the examination into one directed to VEGF-C and another directed to VEGF-D, and there would be no serious burden to continuing to examine both groups of claims.

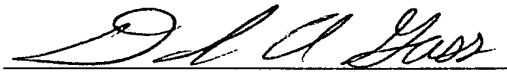
Enclosed is a declaration pursuant to 37 C.F.R. §1.132 in support of the claims directed to methods of treating restenosis with VEGF-D. The declaration evinces the usefulness of VEGF-D in the treatment of restenosis by demonstrating its ability to reduce the intimal thickening of an artery following balloon-denudation.

For the reasons set forth above, the applicants respectfully request reconsideration of the restriction requirement and allowance of all pending claims.

Respectfully submitted,

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June 17, 2003